SA 6594. Ms. KLOBUCHAR (for herself, Mr. MORAN, Mr. COONS, Ms. MURKOWSKI, Mr. BLUMENTHAL, Mr. GRAHAM, Mr. BLUNT, Mr. LEAHY, and Mrs. SHAHEEN) submitted an amendment intended to be proposed by her to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE I—AFGHAN ADJUSTMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Afghan Adjustment Act''.

SEC. 102. DEFINITIONS.

In this title:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Armed Services of the Senate;

(D) the Committee on Appropriations of the Senate;

(E) the Committee on the Judiciary of the House of Representatives;

(F) the Committee on Foreign Affairs of the House of Representatives;

(G) the Committee on Armed Services of the House of Representatives; and

(H) the Committee on Appropriations of the House of Representatives.

(2) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(3) SPECIAL IMMIGRANT STATUS.—The term ''special immigrant status'' means special immigrant status provided under—

(A) the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8);

(B) section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note; Public Law 109–163); or

(C) section 107 or an amendment made by such section.

(4) SPECIFIED APPLICATION.—The term ''specified application'' means—

(A) a pending, documentarily complete application for special immigrant status; and

(B) a case in processing in the United States Refugee Admissions Program for an individual who has received a Priority 1 or Priority 2 referral to such program.

(5) UNITED STATES REFUGEE ADMISSIONS PROGRAM.—The term ''United States Refugee Admissions Program'' means the program to resettle refugees in the United States pursuant to the authorities provided in sections 101(a)(42), 207, and 412 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42), 1157, and 1522).

SEC. 103. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) nationals of Afghanistan residing outside the United States who meet the requirements for admission to the United States through a specified special immigrant visa application have demonstrably aided the United States mission in Afghanistan during the past 20 years; and

(2) the United States should increase support for such nationals of Afghanistan.

SEC. 104. SUPPORT FOR AFGHAN ALLIES OUTSIDE OF THE UNITED STATES.

(a) RESPONSE TO CONGRESSIONAL INQUIRIES.—The Secretary of State shall respond to inquiries by Members of Congress regarding the status of a specified application submitted by, or on behalf of, a national of Afghanistan, including any information that has been provided to the applicant, in accordance with section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)).

(b) OFFICE IN LIEU OF EMBASSY.—During the period in which there is no operational United States embassy in Afghanistan, the Secretary of State shall designate an appropriate office within the Department of State—

(1) to review specified applications submitted by nationals of Afghanistan residing in Afghanistan, including by conducting any required interviews;

(2) to issue visas or other travel documents to such nationals, in accordance with the immigration laws;

(3) to provide services to such nationals, to the greatest extent practicable, that would normally be provided by an embassy; and

(4) to carry out any other function that the Secretary considers necessary.

SEC. 105. INTERAGENCY TASK FORCE ON AFGHAN ALLY STRATEGY.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the President shall establish an Interagency Task Force on Afghan Ally Strategy (referred to in this section as the ''Task Force'')—

(1) to develop and oversee the implementation of the strategy and contingency plan described in subsection (d)(1)(A); and

(2) to submit the report, and provide a briefing on the report, as described in subsection (d).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall include—

(A) 1 or more representatives from each relevant Federal agency, as designated by the head of the applicable relevant Federal agency; and

(B) any other Federal Government official designated by the President.

(2) DEFINED TERM.—In this subsection, the term ''relevant Federal agency'' means—

(A) the Department of State;

(B) the Department Homeland Security;

(C) the Department of Defense;

(D) the Department of Health and Human Services;

(E) the Federal Bureau of Investigation; and

(F) the Office of the Director of National Intelligence.

(c) CHAIR.—The Task Force shall be chaired by the Secretary of State.

(d) DUTIES.—

(1) REPORT.—

(A) IN GENERAL.—Not later than 180 days after the date on which the Task Force is established, the Task Force, acting through the chair of the Task Force, shall submit a report to the appropriate committees of Congress that includes—

(i) a strategy for facilitating the resettlement of nationals of Afghanistan outside the United States who, during the period beginning on October 1, 2001, and ending on September 1, 2021, directly and personally supported the United States mission in Afghanistan, as determined by the Secretary of State in consultation with the Secretary of Defense; and

(ii) a contingency plan for future emergency operations in foreign countries involving foreign nationals who have worked directly with the United States Government, including the Armed Forces of the United States and United States intelligence agencies.

(B) ELEMENTS.—The report required under subparagraph (A) shall include—

(i) the total number of nationals of Afghanistan who have pending specified applications, disaggregated by—

(I) such nationals in Afghanistan and such nationals in a third country;

(II) type of specified application; and

(III) applications that are documentarily complete and applications that are not documentarily complete;

(ii) an estimate of the number of nationals of Afghanistan who may be eligible for special immigrant status under section 107 or an amendment made by such section;

(iii) with respect to the strategy required under subparagraph (A)(i)—

(I) the estimated number of nationals of Afghanistan described in such subparagraph;

(II) a description of the process for safely resettling such nationals;

(III) a plan for processing such nationals of Afghanistan for admission to the United States, that—

(aa) discusses the feasibility of remote processing for such nationals of Afghanistan residing in Afghanistan;

(bb) includes any strategy for facilitating refugee and consular processing for such nationals of Afghanistan in third countries, and the timelines for such processing;

(cc) includes a plan for conducting rigorous and efficient vetting of all such nationals of Afghanistan for processing;

(dd) discusses the availability and capacity of sites in third countries to process applications and conduct any required vetting for such nationals of Afghanistan, including the potential to establish additional sites; and

(ee) includes a plan for providing updates and necessary information to affected individuals and relevant nongovernmental organizations;

(IV) a description of considerations, including resource constraints, security concerns, missing or inaccurate information, and diplomatic considerations, that limit the ability of the Secretary of State or the Secretary of Homeland Security to increase the number of such nationals of Afghanistan who can be safely processed or resettled;

(V) an identification of any resource or additional authority necessary to increase the number of such nationals of Afghanistan who can be processed or resettled;

(VI) an estimate of the cost to fully implement the strategy; and

(VII) any other matter the Task Force considers relevant to the implementation of the strategy; and

(iv) with respect to the contingency plan required by subparagraph (A)(ii)—

(I) a description of the standard practices for screening and vetting foreign nationals considered to be eligible for resettlement in the United States, including a strategy for vetting, and maintaining the records of, such foreign nationals who are unable to provide identification documents or biographic details due to emergency circumstances;

(II) a strategy for facilitating refugee or consular processing for such foreign nationals in third countries;

(III) clear guidance with respect to which Federal agency has the authority and responsibility to coordinate Federal resettlement efforts;

(IV) a description of any resource or additional authority necessary to coordinate Federal resettlement efforts, including the need for a contingency fund; and

(V) any other matter the Task Force considers relevant to the implementation of the contingency plan.

(C) FORM.—The report required under subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.

(2) BRIEFING.—Not later than 60 days after submitting the report required by paragraph

(1), the Task Force shall brief the appropriate committees of Congress on the contents of the report.

(e) TERMINATION.—The Task Force shall remain in effect until the earlier of—

(1) the date on which the strategy required under subsection (d)(1)(A)(i) has been fully implemented; or

(2) the date that is 10 years after the date of the enactment of this Act.

SEC. 106. ADJUSTMENT OF STATUS FOR ELIGIBLE INDIVIDUALS.

(a) DEFINED TERM.—In this section, the term ''*eligible individual*'' means an alien who—

(1) is present in the United States—

(2) is a citizen or national of Afghanistan or, in the case of an alien having no nationality, is a person who last habitually resided in Afghanistan; and

(3)(A) was inspected and admitted to the United States on or before the date of the enactment of this Act;

(B) was paroled into the United States during the period beginning on July 30, 2021, and ending on the date of the enactment of this Act, provided that such parole has not been terminated by the Secretary of Homeland Security upon written notice; or

(C)(i) was admitted or paroled into the United States after the date of the enactment of this Act; and

(ii) has been determined by the Secretary of Homeland Security, in cooperation with the Secretary of Defense and other Federal agency partners, to have directly and personally supported the United States mission in Afghanistan, to an extent considered comparable to the support provided by individuals who have received Chief of Mission approval as part of their application for special immigrant status.

(b) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust the status of an eligible individual to the status of an alien lawfully admitted for permanent residence if—

(1) the eligible individual—

(A) submits an application for adjustment of status in accordance with procedures established by the Secretary; and

(B) meets the requirements of this section; and

(2) the Secretary determines, in the unreviewable discretion of the Secretary, that the adjustment of status of the eligible individual is not contrary to the national interest, public safety, or national security of the United States.

(c) ADMISSIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) (relating to the admissibility of refugees seeking adjustment of status) shall apply to applicants for adjustment of status under this section.

(2) ADDITIONAL LIMITATIONS ON ADMISSIBILITY.—The Secretary of Homeland Security may not waive under section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c))—

(A) any ground of inadmissibility under paragraph (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(B) any applicable ground of inadmissibility under paragraph (2) of that section that arises due to criminal conduct that was committed in the United States on or after July 30, 2021.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to limit any other waiver authority applicable under the immigration laws to an applicant for adjustment of status.

(d) INTERVIEW AND VETTING REQUIREMENTS.—

(1) REQUIREMENTS FOR IN-PERSON INTERVIEW AND VETTING.—

(A) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Defense and, as appropriate, the Attorney General, shall establish vetting requirements for applicants seeking adjustment of status under this section that are equivalent in rigor to the vetting requirements for refugees admitted to the United States through the United States Refugee Admissions Program by conducting—

(i) an in-person interview (except in the case of a child who was younger than 10 years of age at the time of admission or parole);

(ii) biometric and biographic screening to identify any derogatory information associated with applicants;

(iii) a review and analysis of the data holdings of the Department of Defense, the Department of Homeland Security, and other cooperating interagency partners, including biographic and biometric records, iris scans, fingerprints, voice biometric information, hand geometry biometrics, and other identifiable information; and

(iv) a review of the information required to be collected under paragraph (2).

(B) CLEARANCE OF VETTING REQUIREMENTS.—

(i) IN GENERAL.—The Secretary of Homeland Security may not adjust the status of an eligible individual to that of an alien lawfully admitted for permanent residence under this section until—

(I) the vetting requirements described in subparagraph (A) have been implemented; and

(II) the eligible individual clears the vetting requirements established under subparagraph (A).

(ii) PRIORITIZATION.—The Secretary of Homeland Security shall prioritize the vetting of applicants under this paragraph in a manner that best ensures national security.

(iii) PREVIOUS VETTING.—The Secretary of Homeland Security shall conduct the vetting requirements established under subparagraph (A) with respect to each applicant for adjustment of status under this section regardless of whether the applicant has undergone previous vetting.

(C) INTERVIEW AT PORT OF ENTRY.—An interview of an individual by a U.S. Customs and Border Protection official at a port of entry shall not be considered to satisfy the in-person interview requirement under subparagraph (A)(i).

(D) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require, as part of the vetting requirements under this subsection, that the Secretary of Homeland Security collect from an applicant any biometric information that the Department of Homeland Security already has on file.

(2) VETTING DATABASE REQUIREMENT.—

(A) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Defense and, as appropriate, partners in the intelligence community (including officials of the Department of State, the Federal Bureau of Investigation, and the National Counterterrorism Center), shall maintain records that contain, for each applicant under this section for the duration of the pendency of their application for adjustment of status—

(i) personal biographic information, including name and date of birth;

(ii) biometric information, including, where available, iris scans, photographs, and fingerprints; and

(iii) the results of all vetting by the United States Government to which the applicant has submitted, including whether the individual has undergone an in-person vetting interview, and any recurrent vetting.

(B) INFORMATION SHARING.—In response to a request from the Secretary of Homeland Security, in accordance with subparagraph (A), Federal agencies shall share information to the extent authorized by law.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to limit the authority of the Secretary of Homeland Security to maintain records under any other law.

(e) RECORD OF ADMISSION.—

(1) PRIORITY FOR THOSE WHO SUPPORTED THE UNITED STATES MISSION IN AFGHANISTAN.—Upon the approval of an application for adjustment of status under this section submitted by an applicant (and the spouse and child of an applicant, if otherwise eligible for adjustment of status under this section) who submits documentation establishing that the applicant has received Chief of Mission approval as part of their application for special immigrant status, the Secretary of Homeland Security shall create a record of the alien's admission as a lawful permanent resident as of the date on which the alien was inspected and admitted or paroled into the United States.

(2) OTHER APPLICANTS.—Upon the approval of an application for adjustment of status under this section submitted by an applicant other than an applicant described in paragraph (1), the Secretary of Homeland Security shall create a record of the alien's admission as a lawful permanent resident as of the date on which the alien's application for adjustment of status under this section was approved.

(f) DEADLINE FOR APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual described in subsection (a) may only adjust status under this section if the individual submits an application for adjustment of status not later than the later of—

(A) the date that is 2 years after the date on which final guidance described in subsection (i)(2) is published; or

(B) the date that is 2 years after the date on which such individual becomes eligible to apply for adjustment of status under this section.

(2) EXCEPTION.—An application under this section may be considered after the applicable date described in paragraph (1), if the applicant demonstrates to the satisfaction of the Secretary of Homeland Security the existence of extraordinary circumstances relating to the delay in submission of the application.

(g) PROHIBITION ON FURTHER AUTHORIZATION OF PAROLE.—An individual described in subsection (a) who was paroled into the United States shall not be authorized for an additional period of parole if such individual fails to submit an application for adjustment of status by the deadline described in subsection (f).

(h) EMPLOYMENT AUTHORIZATION.—Notwithstanding any other provision of law, the Secretary of Homeland Security may extend the period of employment authorization provided to an individual described in subparagraph (A) or (B) of subsection (a)(2) to the extent that the individual has been granted any additional period of parole.

(i) IMPLEMENTATION.—

(1) INTERIM GUIDANCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall issue guidance implementing this section.

(B) PUBLICATION.—Notwithstanding section 553 of title 5, United States Code, guidance issued pursuant to subparagraph (A)—

(i) may be published on the internet website of the Department of Homeland Security; and

(ii) shall be effective on an interim basis immediately upon such publication, but may be subject to change and revision after notice and an opportunity for public comment.

(2) FINAL GUIDANCE.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall finalize the guidance implementing this section.

(B) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURES ACT.—Chapter 5 of title 5, United States Code (commonly known as the ''Administrative Procedures Act'') shall not apply to the guidance issued under this paragraph.

(j) ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide applicants for adjustment of status under this section with the same right to, and procedures for, administrative review as are provided to applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255).

(k) PROHIBITION ON FEES.—The Secretary of Homeland Security may not charge a fee to any eligible individual in connection with—

(1) an application for adjustment of status or employment authorization under this section; or

(2) the initial issuance of a permanent resident card or an employment authorization document under this section.

(l) PENDING APPLICATIONS.—

(1) IN GENERAL.—During the period beginning on the date on which an alien files a bona fide application for adjustment of status under this section and ending on the date on which the Secretary of Homeland Security makes a final administrative decision regarding such application, an applicant included in such application who remains in compliance with all application requirements may not be—

(A) removed from the United States unless the Secretary of Homeland Security makes a prima facie determination that the alien is, or has become, ineligible for adjustment of status under this section;

(B) considered unlawfully present under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)); or

(C) considered an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3))) if the alien has applied for and has been issued an employment authorization document.

(2) EFFECT ON OTHER APPLICATIONS.—Notwithstanding any other provision of law, in the interest of efficiency, the Secretary of Homeland Security may pause consideration of any other application for immigration benefits pending adjudication so as to prioritize an application for adjustment of status pursuant to this title.

(m) ELIGIBILITY FOR BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) an individual described in subsection (a) of section 2502 of the Afghanistan Supplemental Appropriations Act, 2022 (8 U.S.C. 1101 note, Public Law 117–43) shall retain his or her eligibility for the benefits and services described in subsection (b) of such section if the individual has a pending application under this section or is granted adjustment of status under this section; and

(B) such benefits and services shall remain available to the individual to the same extent and for the same periods of time as such benefits and services are otherwise available to refugees who acquire such status.

(2) EXCEPTION FROM FIVE-YEAR LIMITED ELIGIBILITY FOR MEANS-TESTED PUBLIC BENEFITS.— Section 403(b)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(b)(1)) is amended by adding at the end the following:

''(F) An alien who status is adjusted to that of an alien lawfully admitted for permanent residence under section 106 of the Afghan Adjustment Act.''.

(n) PARENTS AND LEGAL GUARDIANS OF UNACCOMPANIED CHILDREN.—A parent or legal guardian of an eligible individual shall be eligible for adjustment of status under this section if—

(1) the eligible individual was under 18 years of age on the date on which the eligible individual was admitted or paroled into the United States; and

(2) such parent or legal guardian was paroled into or admitted to the United States after the date referred to in paragraph (1).

(o) EXEMPTION FROM NUMERICAL LIMITATIONS.—

(1) IN GENERAL.—Aliens granted adjustment of status under this section shall not be subject to the numerical limitations under sections 201, 202, and 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, and 1153).

(2) SPOUSE AND CHILDREN BENEFICIARIES.—A spouse or child who is the beneficiary of an immigrant petition under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) filed by an alien who has been granted adjustment of status under this section, seeking classification of the spouse or child under section 203(a)(2)(A) of that Act (8 U.S.C. 1153(a)(2)(A)) shall not be subject to the numerical limitations under sections 201, 202, and 203 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, and 1153).

(p) NOTIFICATION OF ELIGIBLE INDIVIDUALS.—The Secretary of Homeland Security shall make reasonable efforts to notify eligible individuals, including eligible individuals who independently departed United States Government facilities, with respect to—

(1) the requirements for applying to adjust status under this section;

(2) the deadline for submitting an application; and

(3) the consequences under subsection (g) for failing to apply for adjustment of status.

(q) REPORTING REQUIREMENTS.—

(1) REPORT AND CONSULTATION ON VETTING REQUIREMENTS.—

(A) INITIAL CONGRESSIONAL CONSULTATION ON VETTING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly inform and consult with the appropriate committees of Congress, in a classified or unclassified setting, with respect to the vetting requirements for applicants seeking adjustment of status under this section, including the nature of the interview and biometric and biographical screening processes required for such applicants and the amount of time needed by the agencies to set up the procedures and database required by this section.

(B) SECOND CONGRESSIONAL CONSULTATION ON VETTING.—Not later than the earlier of the date that is 180 days after the date of the enactment of this Act or the date on which the Secretary of Homeland Security begins accepting applications for adjustment of status under this title, the Secretary shall provide to the appropriate committees of Congress with a second consultation on—

(i) the status of the vetting under this section, including the steps the Secretary has taken to respond to feedback provided during the initial consultation under subparagraph (A); and

(ii) the progress of the Secretary toward fully setting up the procedures and database required by this section.

(2) BRIEFING.—

(A) IN GENERAL.—Not later than 1 year after the application deadline under subsection (f)(1)(A), the Secretary of Homeland Security shall provide the appropriate committees of Congress with a briefing on the status of the vetting under this section of eligible individuals, including a plan for addressing any identified security concerns.

(B) ELEMENT.—The briefing required by subparagraph (A) shall include information on individuals who are eligible for adjustment of status under this section but did not—

(i) submit an application for adjustment of status under this section; or

(ii) meet the requirements of subsection (f)(2).

(3) INFORMATION REQUEST BY MEMBER OF CONGRESS.—Upon request by a Member of Congress on behalf of an applicant or by any of the appropriate committees of Congress, the Secretary of Homeland Security shall provide, in a classified or an unclassified setting, as appropriate, the basis for an exercise of discretion under subsection (b)(2) that resulted in the denial of an application for adjustment of status.

(r) RULE OF CONSTRUCTION.—Nothing in this section may be construed to preclude an eligible individual from applying for or receiving any immigration benefit to which the eligible individual is otherwise entitled.

(s) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security $20,000,000 for each of the fiscal years 2023 through 2027 to carry out this section.

SEC. 107. NEW CATEGORY OF SPECIAL IMMIGRANT VISAS FOR AT-RISK AFGHAN ALLIES AND RELATIVES OF CERTAIN MEMBERS OF THE ARMED FORCES.

(a) AT-RISK AFGHAN ALLIES.—

(1) IN GENERAL.—The Secretary of Homeland Security, or, notwithstanding any other provision of law, the Secretary of State may provide an alien described in paragraph (2) (and the spouse and children of the alien if accompanying or following to join the alien) with the status of a special immigrant under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) if—

(A) the alien or an agent acting on behalf of the alien submits a request for a recommendation under paragraph (3);

(B) the alien is otherwise admissible to the United States and eligible for lawful permanent residence (excluding the grounds of inadmissibility under section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4))); and

(C) with respect to the alien, the Secretary of Defense has made a positive recommendation under paragraph (3).

(2) ALIEN DESCRIBED.—

(A) IN GENERAL.—An alien described in this paragraph is an alien who—

(i) is a citizen or national of Afghanistan;

(ii) was—

(I) a member of—

(aa) the special operations forces of the Afghanistan National Defense and Security Forces;

(bb) the Afghanistan National Army Special Operations Command;

(cc) the Afghan Air Force; or

(dd) the Special Mission Wing of Afghanistan;

(II) a female member of any other entity of the Afghanistan National Defense and Security Forces, including—

(aa) a cadet or instructor at the Afghanistan National Defense University; and

(bb) a civilian employee of the Ministry of Defense or the Ministry of Interior Affairs;

(III) an individual associated with former Afghan military and police human intelligence activities, including operators and Department of Defense sources;

(IV) an individual associated with former Afghan military counterintelligence;

(V) an individual associated with the former Afghan Ministry of Defense who was involved in the prosecution and detention of combatants; or

(VI) a senior military officer, senior enlisted personnel, or civilian official who served on the staff of the former Ministry of Defense or the former Ministry of Interior Affairs of Afghanistan;

(iii) provided service to an entity or organization described in clause (ii) for not less than 1 year during the period beginning on December 22, 2001, and ending on September 1, 2021, and did so in support of the United States mission in Afghanistan; and

(iv) is recommended positively by the Secretary of Defense to the Secretary of State or the Secretary of Homeland Security, based on a consideration of the information described in paragraph (3)(A)(ii).

(B) INCLUSIONS.—For purposes of eligibility under this paragraph, the Afghanistan National Defense and Security Forces includes members of the security forces under the Ministry of Defense and the Ministry of Interior Affairs of the Islamic Republic of Afghanistan, including the Afghanistan National Army, the Afghan Air Force, the Afghanistan National Police, and any other entity designated by the Secretary of Defense as part of the Afghanistan National Defense and Security Forces during the relevant period of service of the applicant concerned.

(3) DEPARTMENT OF DEFENSE RECOMMENDATION.—

(A) IN GENERAL.—With respect to each principal applicant under this section, as soon as practicable after receiving a request for a recommendation, the Secretary of Defense shall—

(i) review—

(I)(aa) the service record of the principal applicant, if available; or

(bb) if the principal applicant provides a service record, any information that helps verify the service record concerned; and

(II) the data holdings of the Department of Defense and other cooperating interagency partners, including biographic and biometric records, iris scans, fingerprints, voice biometric information, hand geometry biometrics, other identifiable information, and any other information related to the applicant, including relevant derogatory information;

(ii) submit a positive or negative recommendation to the Secretary of State or the Secretary of Homeland Security as to whether the principal applicant meets the requirements under paragraph (2) without significant derogatory information; and

(iii) submit with such recommendation—

(I)(aa) any service record concerned, if available; or

(bb) if the principal applicant provides a service record, any information that helps verify the service record concerned; and

(II) any biometrics for the principal applicant that have been collected by the Department of Defense.

(B) EFFECT OF NO AVAILABLE SERVICE RECORDS.—If no service records are available for a principal applicant, the Secretary of Defense may review any referral from a former or current official of the Department of Defense who has knowledge of the principal applicant's service as described in paragraph (2)(A)(ii).

(C) PERSONNEL TO SUPPORT RECOMMENDATIONS.—Any limitation in law on the number of personnel within the Office of the Secretary of Defense, the military departments, or the defense agencies shall not apply to personnel employed for the primary purpose of carrying out this paragraph.

(D) REVIEW PROCESS FOR NEGATIVE DEPARTMENT OF DEFENSE RECOMMENDATION.—

(i) IN GENERAL.—An applicant who has a negative recommendation from the Department of Defense, as described in subparagraph (A)(ii), or with derogatory information shall—

(I) receive a written notice of negative recommendation from the Secretary of Defense that provides, to the maximum extent practicable, information describing the basis for the negative recommendation, including the facts and inferences, or evidentiary gaps, underlying the individual determination; and

(II) be provided not more than 1 written appeal to the Secretary of Defense for each such negative recommendation.

(ii) DEADLINE FOR APPEAL.—An appeal under subclause (II) of clause (i) shall be submitted not more than 120 days after the date on which the applicant concerned receives a decision under subclause (I) of that clause, or thereafter at the discretion of the Secretary of Defense or the Secretary of Homeland Security.

(iii) REQUEST TO REOPEN.—

(I) IN GENERAL.—An applicant who receives a negative recommendation under clause (i) may submit a request for a Department of Defense recommendation so that the applicant may provide additional information, clarify existing information, or explain any unfavorable information.

(II) LIMITATION.—After considering 1 such request to reopen from an applicant, the Secretary of Defense may deny subsequent requests to reopen submitted by the same applicant.

(b) SPECIAL IMMIGRANT VISAS FOR CERTAIN RELATIVES OF CERTAIN MEMBERS OF THE ARMED FORCES.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) in subparagraph (L)(iii), by adding a semicolon at the end;

(2) in subparagraph (M), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(N) a citizen or national of Afghanistan who is the parent or brother or sister of—

''(i) a member of the armed forces (as defined in section 101(a) of title 10, United States Code); or

''(ii) a veteran (as defined in section 101 of title 38, United States Code).''.

(c) GENERAL PROVISIONS.—

(1) PROHIBITION ON FEES.—The Secretary of Homeland Security, the Secretary of Defense, or the Secretary of State may not charge any fee in connection with an application for, or issuance of, a special immigrant visa or special immigrant status under—

(A) this section or an amendment made by this section;

(B) section 602 of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8); or

(C) section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (8 U.S.C. 1101 note; Public Law 109–163).

(2) REPRESENTATION.—An alien applying for admission to the United States under this section, or an amendment made by this section, may be represented during the application process, including at relevant interviews and examinations, by an attorney or other accredited representative. Such representation shall not be at the expense of the United States Government.

(3) NUMERICAL LIMITATIONS.—

(A) IN GENERAL.—Subject to subparagraph (C), the total number of principal aliens who may be provided special immigrant visas under this section may not exceed 11,500 each fiscal year.

(B) CARRYOVER.—If the numerical limitation specified in subparagraph (A) is not reached during a given fiscal year, the numerical limitation specified in such subparagraph for the following fiscal year shall be increased by a number equal to the difference between—

(i) the numerical limitation specified in subparagraph (A) for the given fiscal year; and

(ii) the number of principal aliens provided special immigrant visas under this section during the given fiscal year.

(C) MAXIMUM NUMBER OF VISAS.—The total number of principal aliens who may be provided special immigrant visas under this section shall not exceed 34,500.

(D) DURATION OF AUTHORITY.—The authority to issue visas under this section shall—

(i) commence on the date of the enactment of this Act; and

(ii) terminate on the date on which all such visas are exhausted.

(4) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided special immigrant visas under this section, or an amendment made by this section, shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)) or section 602 of the Afghan Allies Protection Act of 2009 (8 U.S.C. 1101 note; Public Law 111–8).

(5) ORDER OF CONSIDERATION.—Immigrant visas shall be made available under this section to eligible immigrants in the order in which the Secretary of Defense has issued a recommendation under subsection (a)(3), subject to the requirements of the adjudication process.

(6) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the heads of other appropriate Federal agencies, shall make a reasonable effort to provide an alien who is seeking status as a special immigrant under this section, or an amendment made by this section, protection or to immediately remove such alien from Afghanistan, if possible.

(7) OTHER ELIGIBILITY FOR IMMIGRANT STATUS.—No alien shall be denied the opportunity to apply for admission under this section, or an amendment made by this section, solely because the alien qualifies as an immediate relative or is eligible for any other immigrant classification.

(8) RESETTLEMENT SUPPORT.—A citizen or national of Afghanistan who is admitted to the United States as a special immigrant under this section or an amendment made by this section shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) to the same extent, and for the same periods of time, as such refugees.

(9) ADJUSTMENT OF STATUS.—Notwithstanding paragraph (2), (7), or (8) of subsection (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the Secretary of Homeland Security may adjust the status of an alien described in subparagraph (N) of section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) or subsection (a)(2) of this section to that of an alien lawfully admitted for permanent residence under subsection (a) of such section 245 if the alien—

(A) was paroled or admitted as a nonimmigrant into the United States; and

(B) is otherwise eligible for status as a special immigrant under—

(i) this section; or

(ii) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(10) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security, the Secretary of State, the Secretary of Defense, and the Secretary of Health and Human

Services such sums as are necessary for each of the fiscal years 2023 through 2033 to carry out this section and the amendments made by this section.

SEC. 108. SUPPORT FOR ALLIES SEEKING RESETTLEMENT IN THE UNITED STATES.

Notwithstanding any other provision of law, during Operation Allies Welcome, Enduring Welcome, and any successor operation, the Secretary of Homeland Security and the Secretary of State may waive any fee or surcharge or exempt individuals from the payment of any fee or surcharge collected by the Department of Homeland Security and the Department of State, respectively, in connection with a petition or application for, or issuance of, an immigrant visa to a national of Afghanistan under section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act, 8 U.S.C. 1101(b)(2)(A)(i) and 1153(a), respectively.

SEC. 109. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this title, and the application of the remaining provisions of this title to any person or circumstance, shall not be affected.

SEC. 110. DATE LIMITATION.

The Secretary of Homeland Security may not grant an application for adjustment of status under section 106 or an application for special immigrant status under section 107, or an amendment made by section 107, before the Secretary has implemented the vetting procedures required by this title, and in no event before January 1, 2024.

SA 6595. Mr. MERKLEY (for himself and Ms. MURKOWSKI) submitted an amendment intended to be proposed to amendment SA 6552 proposed by Mr. LEAHY to the bill H.R. 2617, to amend section 1115 of title 31, United States Code, to amend the description of how performance goals are achieved, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

DIVISION KK—PUMP FOR NURSING MOTHERS ACT

SEC. 101. SHORT TITLE.

This division may be cited as the ''Providing Urgent Maternal Protections for Nursing Mothers Act'' or the ''PUMP for Nursing Mothers Act''.

SEC. 102. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE.

(a) EXPANDING EMPLOYEE ACCESS TO BREAK TIME AND SPACE.—The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) is amended—

(1) in section 7 (29 U.S.C. 207), by striking subsection (r); and

(2) by inserting after section 18C (29 U.S.C. 218c) the following:

''SEC. 18D. BREASTFEEDING ACCOMMODATIONS IN THE WORKPLACE.

''(a) IN GENERAL.—An employer shall provide—

''(1) a reasonable break time for an employee to express breast milk for such employee's nursing child for 1 year after the child's birth each time such employee has need to express the milk; and

''(2) a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

''(b) COMPENSATION.—

''(1) IN GENERAL.—Subject to paragraph (2), an employer shall not be required to compensate an employee receiving reasonable break time under subsection (a)(1) for any time spent during the workday for such purpose unless otherwise required by Federal or State law or municipal ordinance.

''(2) RELIEF FROM DUTIES.—Break time provided under subsection (a)(1) shall be considered hours worked if the employee is not completely relieved from duty during the entirety of such break.

''(c) EXEMPTION FOR SMALL EMPLOYERS.—An employer that employs less than 50 employees shall not be subject to the requirements of this section, if such requirements would impose an undue hardship by causing the employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business.

''(d) EXEMPTION FOR CREWMEMBERS OF AIR CARRIERS.—

''(1) IN GENERAL.—An employer that is an air carrier shall not be subject to the requirements of this section with respect to an employee of such air carrier who is a crewmember

''(2) DEFINITIONS.—In this subsection:

''(A) AIR CARRIER.—The term 'air carrier' has the meaning given such term in section 40102 of title 49, United States Code.

''(B) CREWMEMBER.—The term 'crewmember' has the meaning given such term in section 1.1 of title 14, Code of Federal Regulations (or successor regulations).

''(e) APPLICABILITY TO RAIL CARRIERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an employer that is a rail carrier shall be subject to the requirements of this section.

''(2) CERTAIN EMPLOYEES.—An employer that is a rail carrier shall be subject to the requirements of this section with respect to an employee of such rail carrier who is a member of a train crew involved in the movement of a locomotive or rolling stock or who is an employee who maintains the right of way, provided that compliance with the requirements of this section does not—

''(A) require the employer to incur significant expense, such as through the addition of such a member of a train crew in response to providing a break described in subsection (a)(1) to another such member of a train crew, removal or retrofitting of seats, or the modification or retrofitting of a locomotive or rolling stock; or

''(B) result in unsafe conditions for an individual who is an employee who maintains the right of way.

''(3) SIGNIFICANT EXPENSE.—For purposes of paragraph (2)(A), it shall not be considered a significant expense to modify or retrofit a locomotive or rolling stock by installing a curtain or other screening protection.

''(4) DEFINITIONS.—In this subsection:

''(A) EMPLOYEE WHO MAINTAINS THE RIGHT OF WAY.—The term 'employee who maintains the right of way' means an employee who is a safety-related railroad employee described in section 20102(4)(C) of title 49, United States Code.

''(B) RAIL CARRIER.—The term 'rail carrier' means an employer described in section 13(b)(2).

''(C) TRAIN CREW.—The term 'train crew' has the meaning given such term as used in chapter II of subtitle B of title 49, Code of Federal Regulations (or successor regulations).

''(f) APPLICABILITY TO MOTORCOACH SERVICES OPERATORS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an employer that is a motorcoach services operator shall be subject to the requirements of this section.

''(2) EMPLOYEES WHO ARE INVOLVED IN THE MOVEMENT OF A MOTORCOACH.—An employer that is a motorcoach services operator shall be subject to the requirements of this section with respect to an employee of such motorcoach services operator who is involved in the movement of a motorcoach provided that compliance with the requirements of this section does not—

''(A) require the employer to incur significant expense, such as through the removal or retrofitting of seats, the modification or retrofitting of a motorcoach, or unscheduled stops; or

''(B) result in unsafe conditions for an employee of a motorcoach services operator or a passenger of a motorcoach.

''(3) SIGNIFICANT EXPENSE.—For purposes of paragraph (2)(A), it shall not be considered a significant expense—

''(A) to modify or retrofit a motorcoach by installing a curtain or other screening protection if an employee requests such a curtain or other screening protection; or

''(B) for an employee to use scheduled stop time to express breast milk.

''(4) DEFINITIONS.—In this subsection:

''(A) MOTORCOACH; MOTORCOACH SERVICES.—The terms 'motorcoach' and 'motorcoach services' have the meanings given the terms in section 32702 of the Motorcoach Enhanced Safety Act of 2012 (49 U.S.C. 31136 note).

''(B) MOTORCOACH SERVICES OPERATOR.—The term 'motorcoach services operator' means an entity that offers motorcoach services.

''(g) NOTIFICATION PRIOR TO COMMENCEMENT OF ACTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), before commencing an action under section 16(b) for a violation of subsection (a)(2), an employee shall—

''(A) notify the employer of such employee of the failure to provide the place described in such subsection; and

''(B) provide the employer with 10 days after such notification to come into compliance with such subsection with respect to the employee.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply in a case in which—

''(A) the employee has been discharged because the employee—

''(i) has made a request for the break time or place described in subsection (a); or

''(ii) has opposed any employer conduct related to this section; or

''(B) the employer has indicated that the employer has no intention of providing the place described in subsection (a)(2).

''(h) INTERACTION WITH STATE AND FEDERAL LAW.—

''(1) LAWS PROVIDING GREATER PROTECTION.—Nothing in this section shall preempt a State law or municipal ordinance that provides greater protections to employees than the protections provided for under this section.

''(2) NO EFFECT ON TITLE 49 PREEMPTION.—This section shall have no effect on the preemption of a State law or municipal ordinance that is preempted under subtitle IV, V, or VII of title 49, United States Code.''.

(b) CLARIFYING REMEDIES.—The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) is amended—

(1) in section 15(a) (29 U.S.C. 215(a))—

(A) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(B) by adding at the end the following:

''(6) to violate any of the provisions of section 18D.''; and

(2) in section 16(b) (29 U.S.C. 216(b)), by striking ''15(a)(3)'' each place the term appears and inserting ''15(a)(3) or 18D''.

(c) AUTHORIZING EMPLOYEES TO TEMPORARILY OBSCURE THE FIELD OF VIEW OF AN IMAGE RECORDING DEVICE ON A LOCOMOTIVE OR ROLLING STOCK WHILE EXPRESSING BREAST MILK.—Section 20168(f) of title 49, United States Code, is amended—